

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CHARLES T. ZUFFANTE,)	
Petitioner,)	
vs.)	No. 3:13-CV-1146-B (BH)
)	
WILLIAM STEPHENS, Director,)	Referred to U.S. Magistrate Judge
Texas Department of Criminal)	
Justice, Correctional Institutions Division,)	
Respondent.)	

FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Pursuant to *Amended Miscellaneous Order No. 6* (adopted by *Special Order No. 2-59* on May 5, 2005), before the Court is the petitioner's *Motion for Leave to Proceed In Forma Pauperis*, received on May 5, 2015 (doc. 56). Based on the relevant filings and applicable law, the motion should be dismissed as moot.

I. BACKGROUND

By order and final judgment entered on July 16, 2014, Charles T. Zuffante's (Petitioner) petition for writ of habeas corpus under 28 U.S.C. § 2254 was denied with prejudice. (*See* docs. 34-36.) Petitioner did not file a notice of appeal of that order or judgment. On September 11, 2014, however, he filed a motion for leave to proceed *in forma pauperis* (IFP). After reviewing that motion as a motion for extension of time to file a notice of appeal, the Court denied the motion in a January 6, 2015 order adopting the September 22, 2014 findings, conclusions and recommendation. (doc. 52) Petitioner then filed a notice of appeal, on January 21, 2015. (doc. 53.) Finding the notice of appeal untimely, the United States Court of Appeals for the Fifth Circuit dismissed the appeal in an order entered on April 22, 2015. *Zuffante v. Stephens*, No. 15-10065 (5th Cir. April 22, 2015.) Petitioner has now filed a motion for leave to proceed on appeal in forma pauperis.

II. IN FORMA PAUPERIS MOTION

Petitioner's motion for leave to proceed in forma pauperis was received on May 5, 2015, but dated on April 27, 2015, as was the certificate of inmate trust account submitted with the motion. The appeal had already been dismissed for lack of jurisdiction on April 22, 2015. There was no pending appeal when Petitioner prepared this document and signed it. Because there is no basis for the IFP motion, it should be dismissed as moot.

III. RECOMMENDATION

Petitioner's May 5, 2015 *Motion for Leave to Proceed In Forma Pauperis* (doc. 56) should be **DISMISSED** as **MOOT**.

SIGNED this 7th day of May, 2015.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND NOTICE OF RIGHT TO APPEAL/OBJECT

A copy of these findings, conclusions and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE